

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

CNA INSURANCE COMPANY, LTD., a corporation;

Plaintiff,

v.

WALLENIUS WILHELMSEN LOGISTICS AS (“WWLAS”), WALLENIUS WILHELMSEN OCEAN AS (“WWOAS”), AND WALLENIUS WILHELMSEN LOGISTICS AMERICAS LLC; and DOES 1-20;

Defendants.

IN LAW AND IN ADMIRALTY

Case No. 3:20-cv-5884

PLAINTIFF’S COMPLAINT IN ADMIRALTY FOR DAMAGE TO OCEAN CARGO

Plaintiff’s complaint follows:

1. Plaintiff CNA INSURANCE COMPANY, LTD. (“CNA”), is now, and at all times herein material was the insurer of the cargo that is the subject of this lawsuit.

2. Plaintiff is informed and believes, and on the basis of that information and belief alleges that WALLENIUS WILHELMSEN LOGISTICS AS (“WWLAS”), WALLENIUS WILHELMSEN OCEAN AS (“WWOAS”), and WALLENIUS WILHELMSEN LOGISTICS AMERICAS LLC (“WWLA”) (jointly, the “Defendants”), are now and at all times herein material

1 were engaged in business as common carriers for hire within the United States and within this
 2 judicial district, calling regularly at the Port of Tacoma.

3 3. Plaintiff's complaint contains a cause of action for damage to cargo arising under a
 4 statute of the United States, namely the Carriage of Goods by Sea Act, 46 U.S.C. § 30701 Note,
 5 and is therefore within the jurisdiction of this Court pursuant to 28 U.S.C. § 1331, as more fully
 6 appears herein. Additionally, the Court has admiralty jurisdiction pursuant to 28 U.S.C. § 1333.
 7 Venue is proper under 28 U.S.C. § 1391(b).

8 4. This is a cause of action for damage to ocean cargo, and is an admiralty and
 9 maritime claim within the meaning of Rule 9(h), Federal Rules of Civil Procedure, as hereinafter
 10 more fully appears.

11 5. Plaintiff is informed and believes, and on the basis of such information and belief
 12 alleges that, on or about May 16, 2019, at Southampton, United Kingdom, Defendants, and each
 13 of them received a shipment of (1) HP JCB 220X Excavator, (2) HP JCB JS145 Tracked
 14 Excavators, (1) HP JCB JZ141 Excavator, and/or related equipment (the "Cargo"), for carriage
 15 under Wallenius Wilhelmsen Ocean Sea Waybill No. GB1928771, and others, issued by and/or on
 16 behalf of said defendants. Defendants, and each of them, agreed, under contracts of carriage and in
 17 return for good and valuable consideration, to carry the Cargo from Southampton, United
 18 Kingdom to the Port of Tacoma, and there deliver said cargo to the lawful holder of the
 19 aforementioned bills of lading, and others, in the same good order, condition, and quantity as
 20 when received.

21 6. Thereafter, in breach of and in violation of said agreements, Defendants, and each
 22 of them, did not deliver the Cargo in the same good order, condition, and quantity as when
 23 received at Southampton. To the contrary, Defendants, and each of them, delivered the Cargo in a
 24 damaged condition due to rough and/or careless handling. Damage, destruction, and survey costs
 25 incurred due to the Defendants' failure to deliver the Cargo in good order and condition is in the
 26 amount of \$95,592.11.

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1 7. Prior to the shipment of the herein described cargo and prior to any loss thereto,
2 CNA issued its policy of insurance whereby CNA agreed to indemnify the owner of the Cargo and
3 its assigns, against loss of or damage to the Cargo while in transit, including mitigation expenses,
4 and CNA has therefore become obligated to pay, and has paid to the person entitled to payment
5 under said policy the sum of \$95,592.11.

6 8. Plaintiff has therefore been damaged in the sum of \$95,592.11, or another amount
7 according to proof at trial, no part of which has been paid, despite demand therefor.

8 WHEREFORE, Plaintiff prays that this Court enter judgment in its favor and against
9 Defendants, and each of them; that this Court decree payment by Defendants, and each of them, to
10 Plaintiff in the sum of \$95,592.11, together with prejudgment interest thereon and costs of suit
11 herein; and that Plaintiff have such other and further relief as in law and justice it may be entitled
12 to receive.

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Respectfully submitted,

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Dated: September 1, 2020

GIBSON ROBB & LINDH LLP

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/s/ NATHANIEL M. SIMONS

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